



## Spring Housing Conference

RAD 101

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Ocean Bay Apartments

New York, NY



## Public Housing and Section 8 Overview

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## Public Housing

- Public Housing was established to provide decent and safe rental housing for eligible low-income families, the elderly and persons with disabilities. There are \$1.2M people living in public housing, managed by 3,300 Housing Authorities.
- Federal funds used to build housing for families earning 80% of AMI or less and families pay 30% of their income in rent.
- Land has Declaration of Trust restricting use of property and requiring HUD approval for certain actions.
- Absent special HUD approvals, **no debt** can be supported on public housing.
- Congress allocated funds to HUD, who then allocates funding to local housing authorities based on expenses model. Proration due to lack of funding has caused agencies to receive about 90% of the formula needed over the last few decades.
- Funding for operations and capital improvements are separated and cannot be comingled.

## Section 8

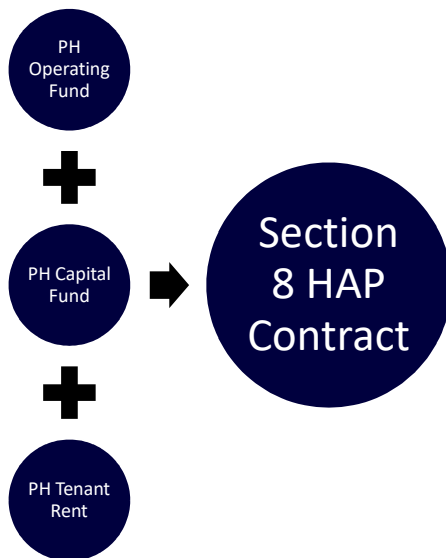
- Created in **1974** with the enactment of the Housing and Community Development Act.
- Subsidizes rent for income eligible families in the private market.
- Families pay 30% of their income in rent.
- Congress allocated funds to HUD, who then allocates funding to Section 8 administrators based on expenses model.
- Funding for administration and housing assistance payments are allocated separately and cannot be comingled.



## RAD Basics

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## What is RAD?

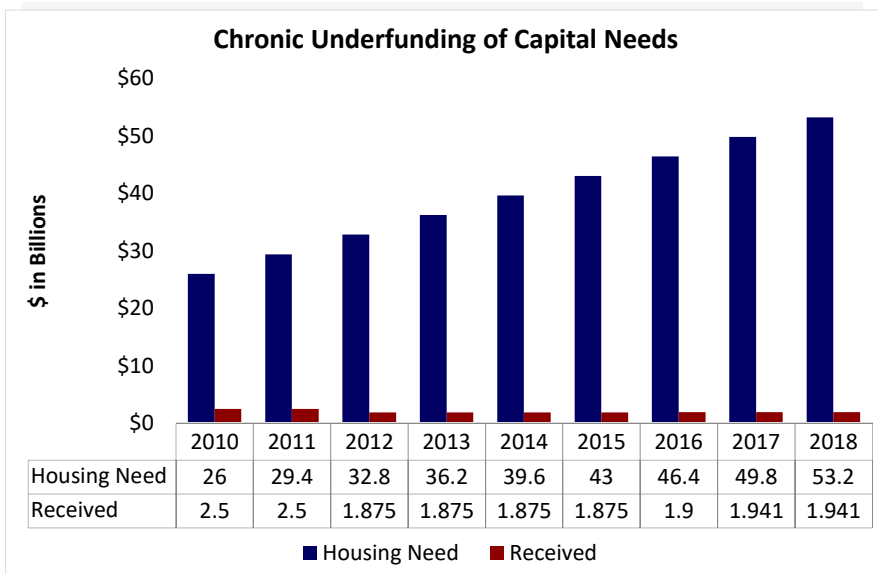


### What is RAD?

- Rental Assistance Demonstration Program is a HUD Program
- Converts existing subsidy for Public Housing into Section 8.
- This allows for mortgages to be placed on the property and for other financing tools like tax credits to be used.

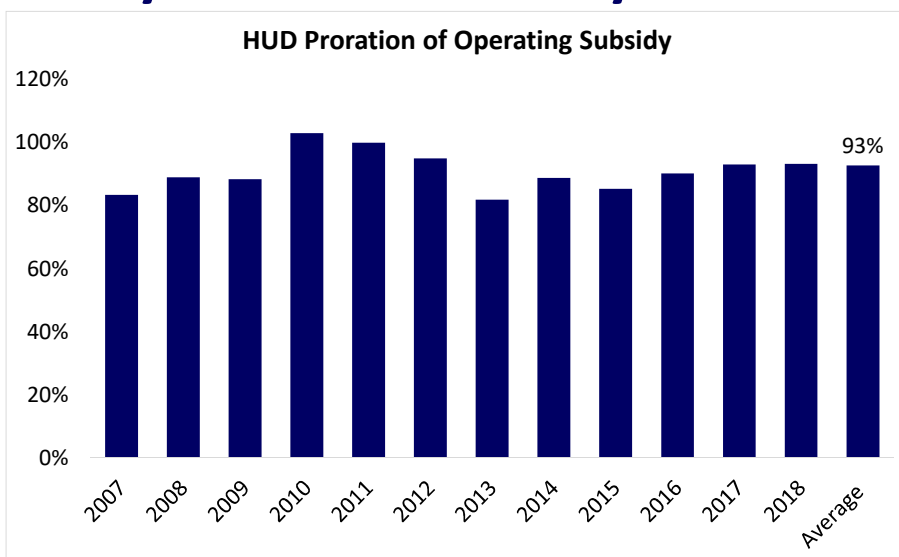
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# Why is RAD Necessary



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# Why is RAD Necessary

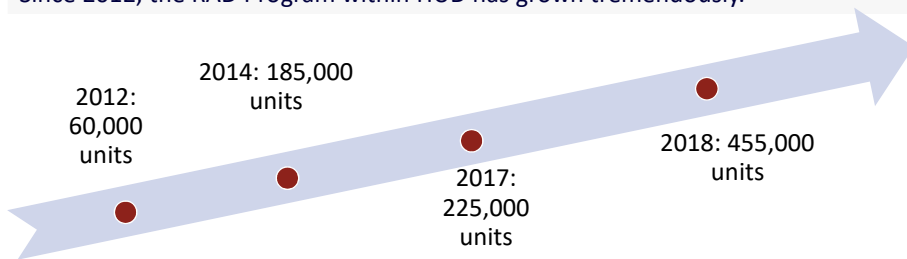


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## RAD Since 2012



Since 2012, the RAD Program within HUD has grown tremendously.



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## RAD Since 2012

As of October 2018, PHAs and their partners have secured over **\$5.87 billion** towards construction and rehab of affordable housing.

Over **101,016 converted public housing units** have benefited from the RAD program.

It would have taken these PHAs **46 years** to accumulate enough public housing Capital Funds to complete a similar level of construction.



RAD transactions have leveraged **\$19 for every \$1** in public housing funds.

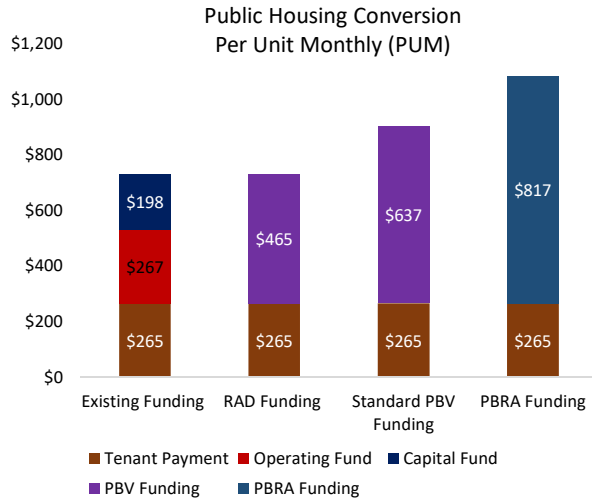
The construction activity has stimulated an estimated **108,000 jobs**

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# RAD Rents

- Residents continue to pay 30% of their income towards rent.
- Tenants also retain the same resident rights they possess under the public housing program.
- After conversion, no increase in funding
- Using PBV could increase the funding to HA but HAs must be able to qualify.



# RAD Acronyms

## General

- MTW – Moving to Work
- CFFP/OFFP – Capital/Operating Fund Financing Program

## RAD Conversion

- RAD – Rental Assistance Demonstration
- CHAP – Commitment to Enter Into a Housing Assistance Payment Contract
- RCC – RAD Conversion Commitment
- OCAF – Operating Cost Adjustment Factor
- FHEO – Fair Housing Equal Opportunity
- AFHMP – Affordable Fair Housing Marketing Plan
- TM – Transaction Manager
- FMR – Fair Market Rents
- AMI – Area Median Income

- TPV -- Tenant Protection Vouchers
- HCV – Housing Choice Vouchers
- PBV – Project Based Vouchers
- PBRA – Project Based Rental Assistance
- 75%/25% -- 75% RAD/25%TPV
- HQS – Housing Quality Standards
- REAC – Real Estate Assessment Center
- TRACs – Tenant Rental Assistance Certification Center

## Financing Acronyms

- LIHTC – Low Income Housing Tax Credits
- FHLB AHP – Federal Home Loan Bank Affordable Housing Program

Pre-RAD

Post-RAD



## RAD Feasibility

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## Portfolio v. Multiphase



### Portfolio Conversions

- Defined by the applicant (either full portfolio or some subset)
- Applications submitted for at least half of the projects in the portfolio
- HUD will reserve award of remaining units
- PHA must submit application for remaining projects in portfolio within 1 year

### Multi-phase Conversions

- Allows PHAs to reserve conversion authority for projects with multiple development phases
- At award, HUD will issue a CHAP for the initial phases as well as a multi-phase award letter for the remaining phases
- PHA required to fulfill all CHAP milestones for each CHAP awarded



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## PBV v. PBRA

Project Based Vouchers	Project Based Rental Assistance
Component of PHA's Housing Choice Voucher program. Voucher funding administered by PHA with admin fee	Provided to owners by HUD's Office of Housing via a HAP; Administered by HUD/PBCA as part of Multi-Family Portfolio
15-20 Year Contract	20 Year Contract
Housing Quality Standards	REAC Inspection Standard
ACC transferred to Housing Choice Voucher Program	ACC removed from portfolio
If PBV > 50% social services are mandatory in family projects	Subject to annual appropriations, but strong history of full appropriations
Contract Rent cap: Lower of current funds; reasonable rent; or 110% FMR minus utilities	Contract Rent cap: Lower of current funding or 120% FMR minus utilities

Conversion can occur using Project Based Vouchers or Project Based Rental Assistance

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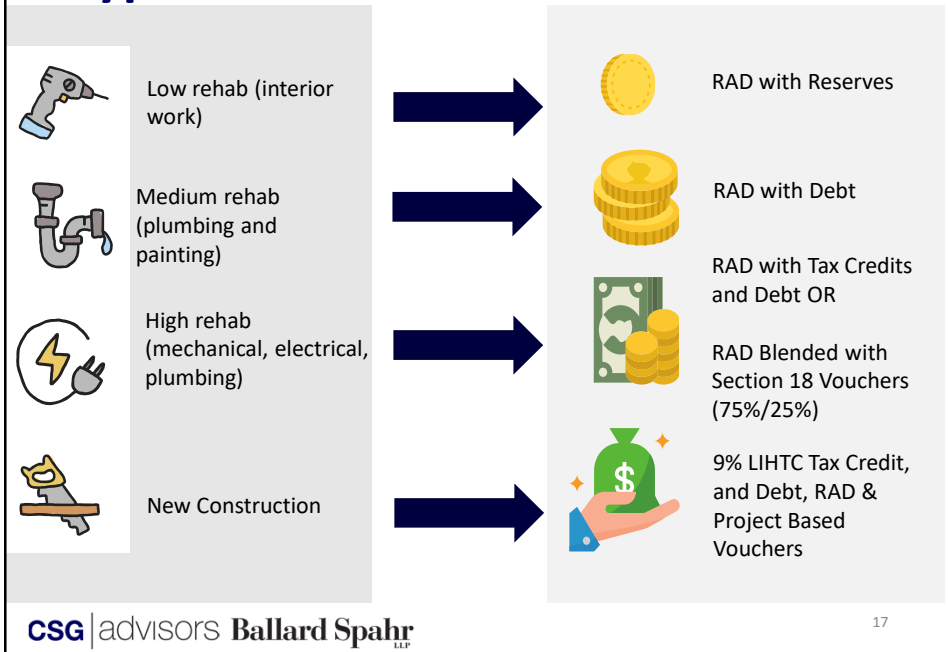
## RAD and Project Based Vouchers

	Project Based Vouchers	RAD
<b>Term</b>	20 Year Contract (HOTMA)	20 year Contract
<b>Rent Increases</b>	Annual but limited	OCAF (Annual)
<b>Administration</b>	PHA	Same
<b>Inspections</b>	Annual – Housing Quality Standards	Same
<b>Income Certifications</b>	Annual	Same
<b>Waiting List</b>	Site Based Waiting List	Similar
<b>Documents</b>	Housing Assistance Payment Contract	HAP Contract
<b>HAP Renewal</b>	Optional renewal after contract term	Mandatory renewal after every contract term expiration
<b>Rental Revenue</b>	Rent Reasonableness	Project Underwriting up to Reasonable Rent
<b>Resident Rights</b>	<i>See Resident Rights Section</i>	<i>See Resident Rights Section</i>
<b>Closing Process</b>	Standard PBV process and documents	Additional steps and documents see slide 9

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## Types of Conversions



## Candidates



### Good Candidates

- Sites or developments with capital needs that can be addressed with reserves, private debt, 4% LIHTC, or that can be competitive for 9% LIHTC
- Sites in racially and socioeconomically mixed areas or areas with targeted redevelopment plans and recent investments
- Sites requiring additional outside capital investments that are not likely to receive HUD demolition/disposition approval
- Sites requiring little or no rehabilitation
- Sites in high market areas

## Pre-RAD

## Post-RAD

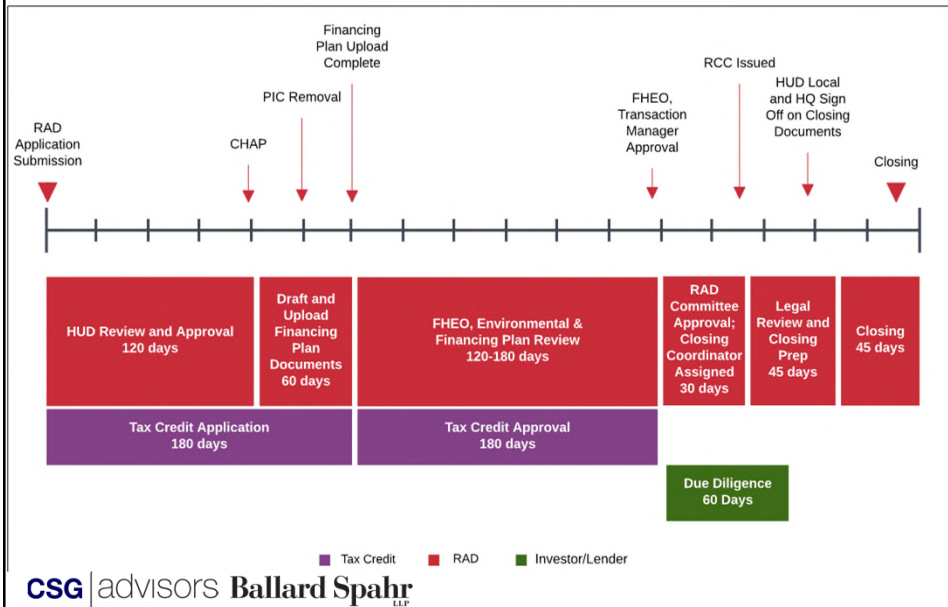


## RAD Conversion Process

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## Timeline



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## Key Players

Role	Description
<b>Transaction Manager</b>	HUD's representative and liaison to the PHA's RAD team. Guides team through CHAP issuance to HUD Committee approval
<b>Closing Coordinator</b>	HUD's representative and liaison to the PHA's RAD team following HUD Committee approval all the way to closing
<b>Board of Commissioners</b>	Makes policy decisions for the agency
<b>PHA Executive Staff</b>	Leads the PHA, executes certifications, signs off on official requests to HUD, and represents the agency in all official correspondence between HUD and the PHA
<b>PHA Staff</b>	Leads the implementation of the RAD conversion, oversees Development Partner and general development, provides requested information, prepares and executes the HAP contract, leads all communication with residents, etc.
<b>Development Partner</b>	Provides majority of development team, leads most aspects of the project, provides no less than 25% of predevelopment expenses, provides guarantees for the project, and pieces the transaction together
<b>Development Consultant</b>	Assists the PHA in performing its role by providing technical expertise, project management services, additional development capacity, and developer oversight
<b>Lenders/Investors</b>	Provides debt and equity to the project to facilitate the proposed rehab or new construction activities

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## Underwriting Criteria

### Operating Proforma

- Uneven trending
- Vacancy loss shall be no less than the greater of the average over the past three years or 3 percent.
- Allowance for bad debt should be not less than the greater of the average over the past three years or 2 percent
- All other operating expenses shall be no less than 85 percent of the average for the last three years, unless justified
- PILOT must be documented by legal opinion
- Replacement Reserves must support 20 year need

### Development Budget

- Developer Fee – Cash Fee cannot be more than 15% of TDC less developer fee, reserves & acquisition.
- A&E cannot be more than 5% of Hard Costs

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# Organizational Requirements

## Ownership & Control

HUD will require ownership or control of the Covered Project by a public or non-profit entity:

- holds a fee simple interest in the real property of the Covered Project
- is the lessor under a ground lease with the Project Owner
- has the direct or indirect legal authority to direct the financial and legal interests of the Project Owner with respect to the RAD units;
- owns 51 percent or more of the general partner/managing member interests with all powers of a general partner or managing member, as applicable;
- owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD;
- other ownership and control arrangements approved by HUD.

# R-CNA Tool

- RAD CNA E-Tool typically reports replacement cost of existing components.
- Work with RCNA provider- make sure RCNA provider has experience
- Applies Fannie Eligible Useful Life for Components
- PHA must meet the 20 Year Need with either upfront reserves OR ongoing replacement reserves.

# Closing Documents

## RAD Closing Documents

- RAD Conversion Commitment
- RAD Use Agreement ( 1st Position)
- RAD Closing Checklist & Overview
- RAD Use Agreement
- Consolidated Owner Certification
- Certification and Assurances
- RAD HAP Contract Part 1
- RAD HAP Contract Part 2
- RAD HAP Contract Exhibits Addendum to the HAP Contract - Labor Standards
- Sample Language for RAD Ownership/Control
- Instructions for Final Docket Submission After Closing

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## Resident Rights

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## Resident Rights



- Residents have a right to return to the completed project
- PHAs cannot rescreen existing residents
- Project owners are required to renew all leases upon expiration
- Residents are allowed to organize and elect a council
- PHAs must consult with affected residents and respond to questions prior to submitting a RAD application
- Implementation of a RAD conversion constitutes a significant amendment to the PHA Plan, requiring public hearings and comment obligations
- PHAs must honor any existing waiting lists at the time of conversion

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## Choice Mobility

- Existing PBV/RAD unit will be leased to another eligible family off the waiting list.
- Choice Mobility option gives residents the ability to use a voucher and move into the private market.
- When tenants make a request, subject to some constraints, **the PHA will offer the tenant the next available voucher.**
- Under the PBV program, tenants may request an HCV after living in a RAD property for one year; under the PBRA program, tenants can request an HCV after living in a RAD property for two years.
- Tenants exercising their choice mobility rights will receive priority on the PHA's waiting list.

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RAD 201

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### Key RAD Factors

- RAD rents are revenue neutral to HUD
- Residents must be permitted to return
- RAD contracts must be renewed
- 20-Year need must be addressed through combination of:
  - Upfront repairs
  - Initial deposit to replacement reserves
  - Ongoing deposits to replacement reserves
- RAD Use Agreement is senior to any debt.

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## Approach to RAD

- HUD's new and old policies create many opportunities for RAD projects
- Several strategies exist to improve potential RAD projects
  - Control the RCNA
  - Boost rents
    - Rent bundling
    - Other enhancements
  - Finance more improvements
  - Harness return to the PHA

## Critical Questions for RAD Feasibility

Is the RAD Capital Needs Assessment E-Tool as good as it gets?

Can I use the 25% TPVs?  
Is my rehab at least 60% of HUD HCC?

Can energy improvements help me support more debt?

Should I wait for more advantageous financing?

Can I break up my development into phases?

Can I supplement my RAD Rents to make the deal work?

Can I reduce my operating expenses to be competitive with the Private Market?



## Is the RAD Capital Needs Assessment E-Tool as Good as it Gets?

- RAD CNA E-Tool typically reports replacement cost of existing components
- Work with RCNA provider- make sure RCNA provider has experience
- Look for costs that should be covered through operations such as:
  - Interior Paint
  - Interior Carpet
- Review Eligible Useful Life for Components

### Impact:

- Reducing costs may make project feasible
- Hard Costs have ripple effects throughout the development budget

## Can I Use Tenant Protection Vouchers?

- New Demo/Dispo rule allows for inclusion of 25% TPVs with RAD conversion
  - Must address at least 60% of the HUD Housing Cost Cap (“HCC”)
- Does my current rehab meet 60% HCC threshold?

### Example:

- For the same 100-unit project, at \$70K per unit in rehab, funding gap drops from \$2 million to about \$600K.

## How Can I Best Utilize Energy Improvements?

- Consider higher rehab level focused upon energy improvements to decrease expenses going forward

### Example:

- Invest the \$1.7 million of additional rehab into energy improvements
- Reduce utility expenses by 20%
- Boost supportable debt
- \$0 funding gap
- Modest acquisition payment to PHA

## Optimize Financing Terms

Consider GSE & FHA Financing

### Example:

- Better terms support an additional \$700K in debt

### Impact:

- Lower Interest Rates
- Longer amortization terms
- Increased debt capacity
- PHA can address gap and potentially extract cash acquisition

## Can I Phase My Rehab to Improve the Financing?

### Variations:

- Conversion with reserves only
- Two-phase debt financing
- With or without tax credits

### Pros:

- Lock in RAD Rents
- Administrative ease for PHA

### Candidates:

- Low rehab needs
- High cash flow

## Can I Supplement My RAD Rents to Make the Deal Work?

Rent Bundling, MTW Enhancements, Capital Fund or Replacement Housing Factor

### Pros:

- Convert one-time funding to ongoing rental subsidy
- Additional debt supported
- Increased acquisition value
- Higher LIHTC equity

### Candidates:

- Shift from high rent to low rent
- Shift rents to higher need projects to offset funding gap

## Can I Reduce My Operating Expenses to be Competitive With the Private Market?

- Consider reducing operating expenses to support more debt.

### Impact:

- PHA earns cash acquisition payment
- PHA can support additional debt
- PHA can earn additional equity
- PHA can address gap and potentially extract cash acquisition

## RAD Strategies in Review

Several strategies exist to improve potential RAD projects

- Control the RCNA
- Boost rents
  - Rent bundling
  - Other enhancements
- Finance more improvements
- Harness return to the PHA



**Congratulations! Your RAD Project is Feasible!**

## Ocean Bay Apartments · New York, NY

Pre-RAD

Post-RAD



**Implementation**

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## Transaction Staffing

### Departments

- Finance
- Development/Capital Projects
- Legal
- Section 8
- Operations
- Executive

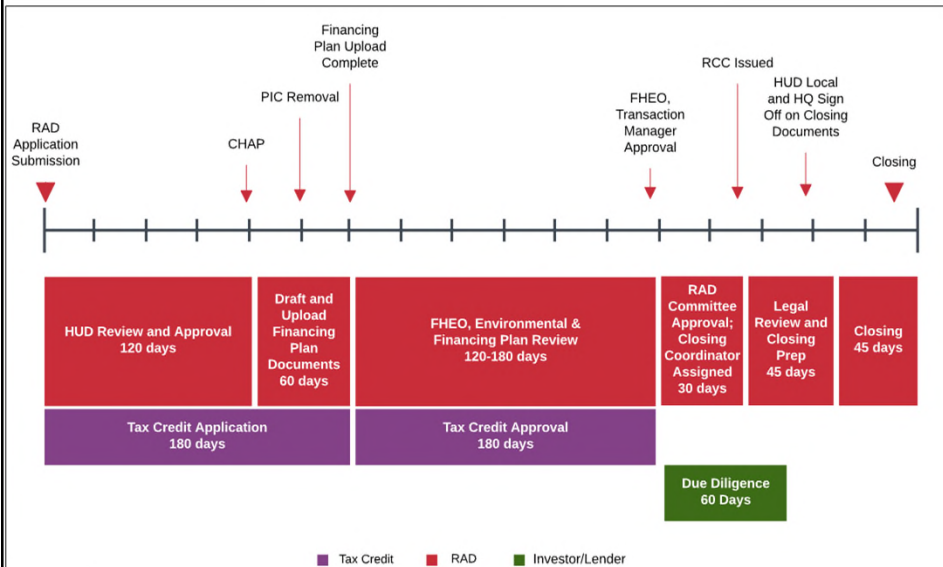
Affordable Housing Development is an opportunity to change the way the Agency operates.

Every facet of the organization is impacted by this transition because of the introduction of third parties.

# External Partners



# Refresh Timing



## What Could Go Wrong?

- HA title records require additional legal attention – often have not been reviewed for decades
- Environmental issues
  - SHPO
  - Asbestos
  - Contaminated Soil
  - Vapor Encroachment
- Fair Housing Issues
  - Minority Concentration
  - Accessibility
- Scope of Work – General Contractor and development team procured, RCNA tool
- Lack of Consistency across document submissions
- No PILOT documentation
- Relocation

## Lessons Learned

- Expect to invest significant time educating:
  - The Board early in the RAD process
  - Lenders and Investors without significant RAD experience
  - Development team partners
  - Residents, ensuring residents fully understand transition
- Communicate with investor, lender, and HFA early regarding the subordination to the RAD Use Agreement
- Understand CNA e-Tool and environmental review timelines – long lead items
  - Secure your CNA e-Tool early and purpose of the CNA
  - Start Part 50/58 Environmental Review process early

## Lessons Learned

- Remember CFP obligation deadlines and extensions if needed
- Remember EPCs and CFFP obligations need to be addressed PRIOR to closing.
- Secure title report early to allow time to remedy title issues in advance of the closing date
- Submit FHEO requests early



## Lessons Learned Continued

- Develop proposed conversion and financing strategies early
  - Understand deadlines and requirements for 4% and 9% LIHTC
  - If using LIHTC identify a strategy for which deals will use 4% or 9%
  - Have a feasible back up plan if 9% LIHTC is not awarded
- Submit RAD Financing Plan soon after 4% LIHTC app is submitted
- Fully involve your Legal department as early as possible
  - Prepare HUD closing documents prior to RCC issuance
  - Push for drafts of LPA and loan documents ASAP





## Lessons Learned Continued

- Strategically implement RAD process and deploy capital improvements
- Procure a developer partner early, if not self-developing
- For portfolio awards, the team must consider staff capacity, relocation requirements, and RAD milestone timing
- If there are a significant number of properties to convert; consider hiring a consultant or fulltime staff person designated to oversee the RAD conversions



## Getting to Closing: What You Can Expect



### Complete Chaos!

#### Specific documents:

- Owner Organizational Structure & Documents
  - HUD-required ownership and control requirements
    - PHA/Non-Profit Control of RAD Owner
    - LIHTC required provisions
- Ground Lease
  - HUD-required provisions, term & recording order
- Subordination Agreements
  - Restrictions must be subordinated to the RAD Use Agreement or otherwise released

# Getting to Closing

## Other Stakeholders:

### Due Diligence with Lender and Investors

- Collection and Review of all documents
- Final Numbers
  - Closing Draw; Budgeted numbers validated







## Ocean Bay Apartments

## New York, NY







## Post RAD

## RAD Before and After

	Before RAD	After RAD
<b>Funding</b> 	Properties are typically not funded at 100%	Properties are placed on a more stable Section 8 platform
<b>Borrowing</b> 	PHAs cannot borrow money to perform necessary repairs	PHAs and owners are permitted to borrow (leveraging the property) to perform necessary repairs
<b>Living Conditions</b> 	Funding fails to keep up with deterioration and physical needs	Living conditions are improved by rehabilitation or new construction
<b>Mobility</b> 	Residents cannot choose to move without losing housing assistance	Residents may receive a tenant-based voucher, or similar assistance, and move after 1 year in PBV or 2 years in PBRA





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## RAD Before and After

	Before RAD	After RAD
<b>Structure</b> 	PHA is Owner and Manager	Partnership, as LLP or LLC, is owner
<b>Operations</b> 	PHA is generally the Property Manager	PHA or 3 <sup>rd</sup> Party Management, as necessary
<b>Procurement</b> 	Follows Rules of Part 85	Does not need to follow Part 85 rules
<b>Residents</b> 	Under Public Housing	Under Section 8

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# RAD Before and After

	Before RAD	After RAD
<b>Self-Developer</b> 	No time constraints; Not subject to third party review; not "guarantying" the work	Responsible for delivery of credits; Expected to fund cost overruns; expected to guaranty the work; net worth/liquidity requirements
<b>Financing Partners</b> 	None	Will require underwriting process; and due diligence process. Project Based budgeting/accounting
<b>Income Verifications</b> 	Over income and Over Housed allowed	Strict income verification rules- subject to tax credit rules and Section 18 Rules
<b>Asset Management</b> 	No Asset Management Function required	Lender/LIHTC will require reporting; Breakeven is important



## Spring Housing Conference

Section 18: Demolition and Disposition of Public Housing

## Section 18 – Demolition/Disposition

### Overview

- HUD allows for public housing to be demolished or sold (disposition) and possibly rebuilt under certain circumstances.
- If HUD allows Section 18 demolition or disposition, Tenant Protection Vouchers may become available to preserve the existing subsidy available to residents if PHA can show necessary rehabilitation to a project is not cost-effective or that the project is obsolete.
- HUD generally considers modifications to be obsolete if costs exceed 62.5% of Total Development Cost (TDC) for elevator structures and 57.14% for other types of structures.

### Governing Statute, Regulations and Notice

- Section 18 of the Housing Act of 1937 (the “Act”)
- 24 CFR Part 970
- PIH Notice 2018-04

## Demolition & Disposition

### Demolition

- Demolition means the removal by razing or other means, in whole or in part, of one or more permanent buildings of a public housing development.
- Demolition involves any four or more of the following:
  - Exterior envelope removal
  - Kitchen removal;
  - Bathroom removal;
  - Electrical system removal
  - Plumbing system removal

### Disposition

- Financing of renovation or replacement of public housing units often may require disposition of units and land in order to obtain financing.
- Proposals for disposition are evaluated against the statutory criteria enumerated in Section 18 of the 1937 Housing Act and the regulations under 24 CFR Part 970.
- PHAs certify that proposals for disposition meet one of the legal reasons for disposition, and sign a certification form stipulating to other specific regulatory requirements in areas such as relocation, civil rights, and financial reporting.

# Demolition & Disposition

## Demolition Justifications

- Physical Condition – 24 CFR 970.15(b)(1)(i) and (b)(2)
- Location – 24 CFR 970.15(b)(1)(ii) and (b)(2)
- Other Factors – 24 CFR 970.15(b)(1)(iii) and (b)(2)
- *De Minimis* Demolition

## Disposition Justifications

- Surrounding Area – 24 CFR 970.17(a) – conditions of the surrounding area adversely impact health/safety of resident or the feasibility of the project
- Improved Efficiency through Offsite Development – 24 CFR 970.17(b)
- Best Interests and Consistency – 24 CFR 970.17(c)
  - Obsolescence – 60% of the Hard Costs
  - Very Small PHAs- less than 50 units
  - Comprehensive Rehab or Replacement through RAD - Hard costs are in excess of 60% of 5-year capital needs (\$495K)
  - Improved Efficiency through On-Site Development
  - Scattered Sites

# Demolition & Disposition



## Other Key Features

- No escalation included in the Physical Needs Assessment (PNA), fees capped.
- Commensurate Public Benefit: Dispositions below FMV require a finding of commensurate public benefit, which HUD determines on a case-by-case basis. Generally, the disposed property must be developed for affordable housing purposes serving low-income families (incomes at or below 80% AMI). **Will require the recording of a Use Agreement to ensure use of property for affordable housing purposes.**

# HUD Policy



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND PERMAN HOUSING

**Special Attention of:**  
Public Housing Agencies (PHAs)  
Public Housing Directors  
Resident Management Corporations

**Notice PIH 2018-04 (HA)**

Issued: March 22, 2018  
Revised: July 3, 2018 to update  
Section 6(F)1 and 6(F)3  
Revised: **December 14, 2018** to add  
2018-09 and minor corrections

This notice supersedes and replaces  
Notice PIH 2012-7. This notice  
remains in effect until amended,  
superseded or rescinded.

Cross-References: Notices: PIH 2011-7; 2016-13; 2016-20; 2016-22; 2016-23; 2017-10; 2017-22; 2017-24; 2018-09

Subject: Demolition and/or disposition of public housing property, eligibility for tenant-protection vouchers and associated requirements.

**1) Purpose.** This notice explains application requirements to request HUD approval to demolish and/or dispose of public housing property under Section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p) (1937 Act) and related Tenant Protection Voucher (TPV) eligibility for such actions. This notice is used in conjunction with HUD's implementing regulations at 24 CFR part 970, and related rules and applies to all SAC applications, including those under review or already approved by HUD if the PHA is requesting an amendment of HUD's approval.

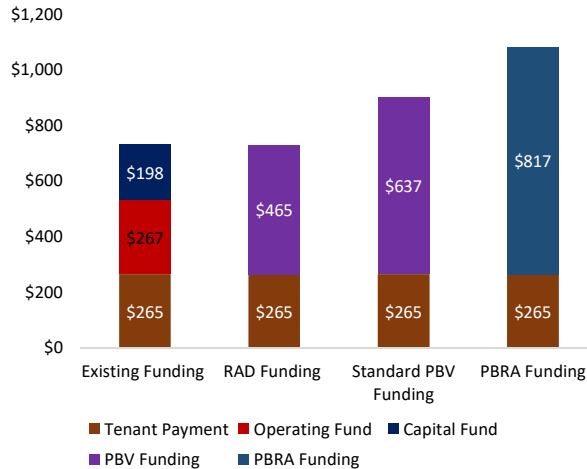
For purposes of this notice, public housing or public housing property means low-income housing, and all necessary appurtenances thereto, assisted under the 1937 Act, other than assistance under 42 U.S.C. 1437f of the 1937 Act (section 8), and includes public housing units developed pursuant to the mixed-finance development method. The term "project" is defined by section 3(b)(1) of the 1937 Act and means housing developed, acquired, or assisted by a PHA under the 1937 Act, and the improvements of any such housing. Public housing includes non-dwelling property (e.g., vacant land, administrative buildings and community buildings) acquired, developed, modernized, operated or maintained with 1937 Act funds.

## New Demo/Dispo Rule

- Scattered Sites of 4 or fewer units will be approved for disposition.
- Tenant Protection Vouchers are first come, first serve.
- Many housing authorities expected to take advantage of the new policy.

# Tenant Protection Vouchers

- Residents continue to pay 30% of their income towards rent.
- Tenants also retain the same resident rights they possess under the public housing program.
- After conversion, no increase in funding
- Using PBV will increase the funding to HA but HAs must be able to qualify for funding.



## Section 18 – Best Interests and Consistency



### Demolition

- For the demolition of an entire development, the development is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes, and no reasonable program of modifications is cost-effective to return the public housing project or portion of the project to its useful life.
- To evidence obsolescence for demolition of a project, **PHAs must show that the necessary modification and/or rehabilitation to a project is not cost-effective.** HUD generally considers modifications not to be cost-effective if costs exceed 62.5% of Total Development Cost for elevator structures and 57.14% for other types of structures.

## Section 18 – Best Interests and Consistency

### Obsolescence

#### Calculating HUD Definition of Obsolescence

##### 1. Determine HUD Total Development Cost (TDC)

PHA must show the cost of rehab is past the HUD threshold of **62.5%** of TDC for elevator structures and **57.14%** of TDC for other types of structures.

##### 2. What Qualifies as the Existing Cost to Rehabilitate Property?

PHAs must demonstrate substantial physical issues of the buildings/units that cannot be corrected in a cost-effective manner.

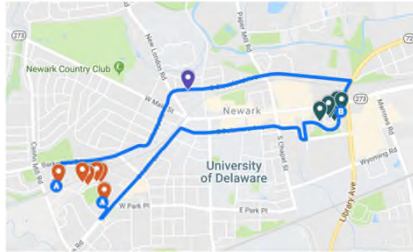
PHAs may submit Physical Needs Assessments (PNAs) that shows required work:

- Building systems, external amenities, and internal amenities, underground utilities, structural defects, imminent health and/or safety issues.
- Mitigation costs of asbestos, lead-based paint, or other environmental issues
- Accessibility improvements for persons with mobility, vision, hearing or other impairments, provided improvements are consistent with standards, regulations.

Projects are Eligible for 100% TPVs.



## Section 18 – Best Interests and Consistency



PHAs with less than 50 ACC units

### Scattered Sites

4 Units or less; Non-Contiguous

### Very Small PHAs

Less than 50 units in the portfolio

## Section 18 – Best Interests and Consistency

### Comprehensive Rehab

#### To Qualify:

- The Hard Construction Budget needs to exceed 60% of HCC. For 75/25 it has nothing to do with backlog of needs, or capital needs

#### Hard Cost Test:

- May Include 14% of General Conditions and Overhead

**Units Undergoing Comprehensive Rehab of Scattered Sites are Eligible for TPVs.**

## Section 18 – Surrounding Area and Improved Efficiency

Retention of the units is not in the best interests of residents or the PHA because disposition allows for the development of other properties that will be more efficiently or effectively operated as low-income housing developments. Development may include acquisition (with or without rehabilitation) or new construction.

PHAs must demonstrate:

- 1) why the replacement low-income housing units are preferable (e.g., more energy efficient; better unit configuration;
- 2) better location in terms of transportation, jobs, or schools;
- 3) furthers minority or economic de-concentration where units are relocated from an area of minority concentration to one that is not concentrated).
- 4) The units being acquired, developed, or rehabilitated must be off-site.
- 5) In providing the statement justifying the proposed disposition pursuant to 24 CFR 970.7(a)(5), PHAs explain their intention to acquire, develop, or rehabilitate low-income housing development

**Only qualifies for 25% Tenant Protection Vouchers.**

## Section 18 – De Minimus



In any 5-year period PHA may demolish not more than the lesser of 5 dwelling units or 5 percent of the total public housing dwelling units owned by the PHA, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents or the demolished unit was beyond repair.

HUD's implementing regulations at 24 CFR 970.27 state the requirements a PHA must meet to engage in a *de minimis* demolition without the need to submit an application.

**De Minimis Units Are Not Eligible for TPVs. PHAs Must Use Own Stock of PBVs.**

## Use of Disposition Proceeds

Proceeds received by the PHA upon the sale of the property must be used as follows:

1. To pay the reasonable costs of the disposition;
2. To retire outstanding debt used to finance the original development. However, SAC automatically processes a waiver of this requirement;
3. For any eligible purpose listed under Section 18(a)(5) of the '37 Act:
  - a) for the provision of **low-income housing** or to benefit the residents of the PHA; or
  - b) to leverage amounts for securing commercial enterprises, on-site in public housing projects of the PHA that are appropriate to serve the needs of the residents.

The Act defines **low-income housing** as decent, safe, and sanitary dwellings assisted under the Act. Accordingly, the provision of low-income housing under Section 18(a)(5) of the Act is limited to public housing units or Section 8 housing units.

## Application and HUD Approval

### Section 18 Application

- Proceeds
- PHA Plan
- Board Resolution
- Environmental Review and Approval
- Local Government Consultation
- Description of the UFAS Accessible Units
- Survey/ DOT
- Site Map
- Appraisal
- Timetable
- Relocation
- Advisory Services
- Expenses and Budget
- Comparable Housing
- Resident Consultation



### HUD Approvals

- Once submitted, SAC issues conditional approval letter.
- PHA requests TPV authority from Local HUD Office.
- HUD may elect not to process TPV applications in October due to the FYE transition.

## Tenant Protection Vouchers as Project Based Vouchers

- Verify Admin Plan has required PBV Language
- Verify Agency Plan properly contemplates PBV
- Verify Project meets HOTMA exemptions to competition and CAPs
- Prepare and submit Notice to HUD of intent to award PBV in accordance with PIH Notice 2015-5
- Determine if independent entity rules apply
- Advise HUD of selected IE
- Complete non competitive PBV application
- Review Application for Completeness, Accuracy, and Compliance
- Submit non-competitive PBV Application to IE
- Independent Entity determines that award is arm's length
- Issue Contingent Award Letter
- Publish Notice of Award
- Firm commitment of funding and other contingencies, such as satisfactory environmental review, complete.
- Compile Subsidy Layering Review Documents
- Submit Subsidy Layering Review to HUD for Approval
- HUD Completes Subsidy Layering Review
- Prepare AHAP for Execution
- Caution: HUD may require residents to be presented an option to retain the TPV-nature of the assistance.

## Closing Process

Once the SAC has issued its approval letter, the following documents are provided to the applicable HUD Field Office for review by the PIH asset manager and the HUD attorney:

1. Demolition/Disposition Narrative
2. SAC Approval Letter
3. Preliminary Title Report/Commitment
4. Declaration of Trust encumbering the property
5. Draft transfer document (deed or ground lease)
6. Draft Release of Declaration of Trust
7. Draft Use Agreement, if applicable
8. Additional documents as requested, which may include:
  - a) Escrow Agreement regarding use of disposition proceeds
  - b) Recording instructions
  - c) Authorizing resolutions
  - d) Evidence of satisfaction of any conditions of SAC approval letter

Once all comments have been addressed, coordinate execution of the Release and Use Agreement by HUD and delivery of the same to the title company.